

Office of the Secretary of Labor

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would be inconsistent with other statutory requirements. However, no trivial violation of, or noncompliance with, these procedures shall give rise to an independent cause of action (cf. 40 CFR 1500.3 and 1507.3(b)).

§ 11.2 Applicability.

Although all Department of Labor agencies are subject to NEPA, only three of its agencies routinely propose or consider actions which may require the preparation of environment assessments or environmental impact statements. These are the Occupational Safety and Health Administration (OSHA), which acts pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651, *et seq.*); the Mine Safety and Health Administration (MSHA), which acts pursuant to the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801, *et seq.*); and the Employment and Training Administration (ETA) (through one of its major programs, the Job Corps) which purchases and leases land and constructs Job Corps centers pursuant to the Comprehensive Employment and Training Act (29 U.S.C. 801, *et seq.*). Therefore, these procedures have been designed primarily with the duties and rule-making processes of these agencies in mind. If and when other Department of Labor agencies propose actions requiring environmental impact analyses, they shall use these procedures, to the extent that they are applicable, in performing such analyses.

§ 11.3 Responsible agency officials.

(a) The Assistant Secretary of Labor for Policy, Evaluation and Research (ASPER) shall be responsible for the following:

(1) Overall review of Department of Labor agency compliance with the requirements of NEPA, the CEQ's regulations and these Departmental procedures;

(2) Maintaining contacts with CEQ and the Environmental Protection Agency (EPA) as the Departmental NEPA liaison; and

(3) Preparing and coordinating Departmental comments in response to environmental impact statements prepared by other Federal agencies which have been submitted to the Depart-

ment for review, as required by 40 CFR 1503.2.

(b) Assistant Secretaries of Labor and other officials of equivalent rank or responsibility (hereinafter "agency heads") shall be responsible for their agencies' compliance with NEPA.

(1) These responsibilities shall include the following:

(i) Assuring that the agencies under their control observe the requirements of 40 CFR 1507.2 on compliance capability;

(ii) Preparing environmental impact assessments and statements in accordance with the requirements of these regulations and 40 CFR parts 1501 and 1502, and advising private applicants, or other non-Federal entities, of the possible need for information foreseeably required for later Federal action pursuant to 40 CFR 1501.2(d);

(iii) Assuring public participation in the NEPA process in accordance with 40 CFR parts 1503 and 1506;

(iv) Commenting on environmental impact statements prepared by other agencies, when their agencies have jurisdiction by law or special expertise with respect to any environmental impacts connected with a proposed action, as required by 40 CFR part 1503;

(v) Assuring that environmental documents prepared by their agencies accompany proposed actions through existing agency review processes, and that, along with other relevant materials, and consistent with 40 CFR 1505.1(e), the full range of alternatives discussed in these documents are considered in the planning of agency actions and in the making of decisions and that the alternatives considered are encompassed by those discussed in the documents; and

(vi) Assuring, where possible, the mitigation of adverse environmental effects of agency actions.

(2) In accordance with 40 CFR 1506.5(c), agency heads will also be responsible for assuring the quality of environmental impact statements prepared by their agencies. Where environmental impact statements will be prepared by a contractor, the agency heads will assure that their agencies furnish guidance to the contractor,

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participate in the document's preparation, independently evaluate the statement prior to approval and take responsibility for the scope and contents.

(c) Agency heads may designate program offices or individuals as NEPA contacts for their agencies. The name and address of the NEPA contact shall be included on the cover sheet of each environmental document published by the agency, or if no cover sheet is provided, the name and address of this office or individual shall be included with any instructions to the public on obtaining further information or submitting comments on the document.

(1) It shall be the duty of an agency's NEPA contact to know the status of all environmental documents being prepared by the agency or in cooperation with another agency.

(2) The NEPA contact shall receive and respond to inquiries concerning the status of all environmental documents being prepared within the agency or in cooperation with another agency.

Subpart B—Administrative Procedures

§ 11.10 Identification of agency actions.

Pursuant to the CEQ definition of "major Federal action" (40 CFR 1508.18) and 40 CFR 1507.3(b)(2), the following paragraphs identify and classify Department of Labor actions which: normally will not require preparation of an environmental document (i.e. an environmental assessment or an environmental impact statement); or usually will require preparation of an environmental document.

(a) *OSHA/MSHA actions.* Actions of the Occupational Safety and Health Administration (OSHA) and the Mine Safety and Health Administration (MSHA) are classified as follows:

(1) *Categorically excluded actions.* OSHA/MSHA actions listed in the following Table will normally qualify for categorical exclusion from NEPA requirements: i.e., such actions do not require preparation of either an environmental assessment or an environmental impact statement, because they do not have a significant impact on the quality of the human environment. Classification as a categorical exclu-

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sion, however, does not prohibit OSHA or MSHA from preparing an environmental assessment or environmental impact statement on any of the following actions when OSHA or MSHA determines it to be appropriate. Also, in extraordinary circumstances where a normally excluded action is found to have a potentially significant environmental effect, OSHA or MSHA shall prepare an environmental assessment and/or an environmental impact statement as required.

OSHA/MSHA CATEGORICAL EXCLUSIONS

Type of action	Reason for exclusion
(i) Promulgation, modification or revocation of any safety standard. Examples of these actions are: Machine guarding requirements, safety lines, warning signals, etc.	Safety standards promote injury avoidance by means of mechanical applications or work practices, the effects of which do not impact on air, water or soil quality, plant or animal life, the use of land or other aspects of the human environment.
(ii) Approval of petitions for variances from MSHA/OSHA safety standards or OSHA health standards.	Variances are taken from existing standards. Thus environmental documents, as appropriate, will already have been prepared. In terms of worker health and safety, any variance must be at least as effective as the original standard.
(iii) Agency legislative requests for appropriations.	Exempted by 40 CFR 1508.17.
(iv) Recordkeeping and reporting requirements.	No possibility of significant environmental impact.
(v) Routine agency personnel actions.	Such actions typically involve small numbers of individuals and have no possibility of significant environmental impact.
(vi) Training of employers, employees, agency personnel and others in the recognition, avoidance or abatement of occupational hazards. Providing consultative services to industry.	These actions involve educational activities which have no possibility of significant environmental impact.
(vii) Enforcement proceedings	Exempted by 40 CFR 1508.18.
(viii) Equipment approvals	No possibility of significant environmental impact.
(ix) State grants under Sec. 503 of the Federal Mine Safety and Health Act.	These grants assist States in developing and implementing laws to improve mine safety and health and to promote coordination between State and Federal governments. They have no possibility of significant environmental impact.
(x) Certification or qualification proceedings.	No possibility of significant environmental impact.

(2) *Actions requiring environmental assessment.* Several classes of OSHA/MSHA actions normally require the